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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 20 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Implementation of the)
Pay Telephone Reclassification and) CC Docket No. 96-128
Compensation Provisions of the)
Telecommunications Act of 1996)

**OPPOSITION
TO PETITION FOR CLARIFICATION OR IN THE ALTERNATIVE
RECONSIDERATION**

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth"), through undersigned counsel and pursuant to Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, hereby opposes the Petition of the American Public Communications Council ("APCC") for Clarification filed on May 5, 1997 (the "May 5 Petition").

APCC concedes that the Common Carrier Bureau's April 4, 1997 *Clarification Order* merely explains the scope of the requirements contained in the *Payphone Reclassification Proceeding*.¹ APCC's efforts to "clarify" the *Clarification Order* are procedurally improper; they constitute an untimely petition for reconsideration of the Commission's November 8, 1997 *Payphone Reconsideration Order*.² To the extent APCC or this Commission are concerned that local exchange carriers are not in compliance with any requirement contained in the *Clarification*

¹ May 5 Petition at 1-2.

² 47 C.F.R. § 1.106(f); *Federation of American Health Systems*, 9 FCC Rcd 3303, 3304 (1994).

Order, the appropriate remedies are available through the enforcement mechanisms contained within the Communications Act.

APCC's May 5 Petition is yet another transparent attempt to cajole this Commission into withholding statutorily mandated interim compensation by relitigating the details of one of the *Reconsideration Order's* several interim compensation eligibility criteria. In its March 25, 1997 *ex parte* letter the RBOC Coalition offered an expedient solution to problematic interpretations of the *Reconsideration Order's* federal tariffing requirement. This solution was rejected by the Common Carrier Bureau.³ At the same time, however, the Common Carrier Bureau rejected APCC's interpretation of the federal tariffing requirement as "too broad."⁴ APCC's requests for additional "clarification" contained in its May 5 Petition are in essence a request that the Commission adopt APCC's oft-advocated, and twice rejected, broadest possible reading of the federal tariffing requirement contained in the *Payphone Classification Proceeding*.

In any event, the Bureau has already said that the unbundled features and functionalities addressed in the *Payphone Reclassification Proceeding* are *similar* to basic service elements under the ONA regulatory framework.⁵ It did not state that these features and functionalities are the *same* as BSEs, which is what APCC now asks when it requests that the Bureau determine that "'payphone specific' features include any unbundled feature that payphone service providers ('PSPs') 'may require or find useful in configuring [their payphone] service.'" APCC's proposed

³ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Order DA 97-678 (Chief, Common Carrier Bureau, released April 4, 1997) at para. 15.

⁴ *Id.* at para. 16. Contrary to APCC's suggestions, BellSouth has, over its continuing objection, demonstrated its compliance with the express terms of the April 4 *Bureau Order* by filing the required *ex parte* and tariff materials.

⁵ *Infra*, n.3, at para. 17.

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clarification should be denied. Its proffered definition of "payphone specific" would engender endless confusion over what functionalities PSPs "may require or find useful" whether or not PSPs actually take a service.⁶ Its inherent uncertainty will be used by PSPs and others who seek to prevent LEC receipt of interim compensation until the wrangling over whether an element is "unbundled" or whether it "may be required" or "found useful" by PSP is finally resolved.

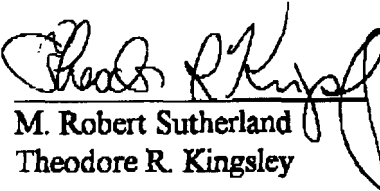
CONCLUSION

For the foregoing reasons, the May 5 petition should be denied in all respects.

Respectfully submitted,

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⁶ In order to comply with the Bureau's April 4, 1997 Order, and to assure its eligibility for interim compensation, BellSouth has already had to go to the extraordinary trouble and expense of preparing and filing a federal tariff package for an intrastate feature that has never been requested by any payphone service provider in that state.

CERTIFICATE OF SERVICE
(CC Docket No. 96-128)

I hereby certify that I have on this 20th day of May, 1997 served the following parties to this action with a copy of the foregoing **OPPOSITION TO PETITION FOR CLARIFICATION OR IN THE ALTERNATIVE RECONSIDERATION** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.


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